have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0072.

List of Subjects

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 319 and 322 are amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

Subpart—Exotic Bee Diseases and Parasites

§ 319.76 [Amended]

2. In § 319.76–2, footnote 1 is revised to read ''Regulations regarding the importation of live honeybees of the genus *Apis* are set forth in 7 CFR part 322.''.

PART 322—HONEYBEES AND HONEYBEE SEMEN

3. The authority citation for part 322 continues to read as follows:

Authority: 7 U.S.C. 281; 7 CFR 2.17, 2.51, and 371.2(c).

§ 322.1 [Amended]

4. Section 322.1 is amended as follows:

a. Footnote 1 and the reference to footnote 1 are removed.

b. In paragraph (c), ''New Zealand'' is removed.

c. Paragraph (e) is redesignated as paragraph (f) and a new paragraph (e) is added to read as set forth below:

§ 322.1 Importation of honeybees and honeybee semen.

* * * * *

(e) Honeybees and honeybee semen from New Zealand may transit the United States en route to another country under the following conditions:

(1) The honeybees or honeybee semen must be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand;

(2) The honeybees or honeybee semen must be shipped nonstop to the United States for transit to another country;

(3) The honeybees must be contained in cages that are completely enclosed by screens with mesh fine enough to prevent the honeybees from passing through. Each pallet of cages must then be covered by an escape-proof net that is secured tightly to the pallet so that no honeybees can escape from underneath the net;

(4) The honeybees must be shipped by air through a port staffed by an inspector.[1] The honeybees may be transloaded from one aircraft to another at the port of arrival in the United States, provided the transloading is done under the supervision of an inspector and the area used for any storage of the honeybees between flights is within a completely enclosed building.

(5) At least 2 days prior to the expected date of arrival of honeybees at a port in the United States, the shipper must notify the APHIS Officer in Charge at the port of arrival of the following: the date of arrival and departure; the name and address of both the shipper and receiver; the quantity of queens and the number of cages of package honeybees in the shipment; and, the name of the airline carrying the shipment.

* * * * *

[1] For a list of ports staffed by inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

Done in Washington, DC, this 26th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–2449 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–34–M

7 CFR Part 372

[Docket No. 93–165–3]

RIN 0579–AA33

National Environmental Policy Act Implementing Procedures

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These final procedures set forth the principles and practices the Animal and Plant Health Inspection Service will follow to comply with the National Environmental Policy Act of 1969, the Council on Environmental Quality regulations, and the U.S. Department of Agriculture regulations implementing the National Environmental Policy Act. These procedures replace APHIS Guidelines Concerning Implementation of NEPA Procedures.

EFFECTIVE DATE: March 3, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Pizel, Branch Chief, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during January 1995. Telephone: (301) 436–8565 (Hyattsville); (301) 734–8565 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

The regulations of the President's Council on Environmental Quality (CEQ) implementing section 102(2) of the National Environmental Policy Act (hereinafter referred to as NEPA) are applicable to and binding on all agencies of the Federal Government. Pursuant to the CEQ implementing regulations, the Animal and Plant Health Inspection Service (APHIS) is implementing procedures to ensure that its planning and decisionmaking are in accordance with the policies and purposes of NEPA. The CEQ implementing regulations direct that agencies shall include, at a minimum, procedures required by 40 CFR 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), 1507.3(b)(2), and 1508.4

(1992). APHIS' procedures supplant the APHIS Guidelines Concerning Implementation of NEPA Procedures originally published in the **Federal Register** on August 28, 1979 (44 FR 50381–50384) and corrections as published in the **Federal Register** on August 31, 1979 (44 FR 51272–51274).

On June 3, 1994, we published in the **Federal Register** (59 FR 28814–28821, Docket No. 93–165–1) proposed procedures implementing CEQ's NEPA regulations. Comments on the proposed procedures were required to be received on or before July 18, 1994. During the comment period, we received a request from the Association of Natural Bio-control Producers that we extend the comment period. The comment stated that additional time was necessary to allow interested parties to evaluate fully and respond to the proposed procedures. In response to this comment, we published a notice in the **Federal Register** on July 22, 1994 (59 FR 37442, Docket No. 93–165–2), reopening and extending the comment period until August 2, 1994.

We received seven comments by August 2, 1994, from the following commenters: American Veterinary Medical Association; Asgrow Seed Company; Association of Natural Bio-control Producers; Environmental Defense Fund; State of California, Department of Food and Agriculture; The Humane Society of the United States; and the Office of the Secretary of the U.S. Department of the Interior. We carefully considered all of the comments we received. Noteworthy issues that were raised in comments—whether or not they prompted changes to the proposed procedures—are developed below either under the appropriate section headings or, if they do not fit within a section heading, under the ''miscellaneous'' heading that follows. Sections 372.1 through 372.3 and 372.7 through 372.10 were not addressed in comments and, except where language was modified to improve clarity or eliminate, insofar as possible, ''jargon,'' remain as originally proposed.

Discussion of Issues

Definitions (Section 372.4)

One commenter, concerned that some language in the procedures is too species-specific, has suggested that APHIS broaden significantly its definition of ''environment.'' The term ''environment'' is not defined in these procedures. CEQ's regulations provide that the term '' 'human environment' shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.'' [1] In evaluating impacts of agency proposals and exploring alternatives under NEPA, we are guided by CEQ's interpretation of the term ''human environment.'' In certain cases, limiting language is used in these procedures, not to circumscribe the scope of required NEPA analysis, but in recognition of program jurisdictional constraints. In no case is language employed to limit APHIS' environmental responsibilities.

Classification of Actions (Section 372.5)

One commenter has criticized the failure of this section to distinguish consistently between specific criteria for and identification of classes of action. He has also urged that examples and classes of action be presented with much greater specificity. We agree and have rewritten this section (the substance of which has not been changed) in an attempt to accommodate those concerns and for general clarification.

Categorically Excluded Actions

One commenter has asked who will make the decisions regarding what is or is not categorically excluded. The decision in the first instance belongs to program personnel who should be greatly assisted in that effort through the rewrite of this section.

Another commenter is ''concerned about the possibility that APHIS may, under the language now proposed, consider the seizure or removal of wild animals from a population for such purposes as disease testing as actions which are categorically excluded.'' The fact is that such seizures or removals, which are generally very limited in scope and humanely pursued, would seldom have the potential to affect significantly the quality of the human environment.[2]

One commenter has inquired whether small-scale field tests of genetically engineered plants is included as a categorically excluded action under paragraph (c)(2), which provides an exclusion for ''[a]ctivities that are carried out in laboratories, facilities, or other areas designed to eliminate the potential for harmful environmental effects.'' In fact, the environmental assessment process has been undertaken for hundreds of permits that have been issued to conduct small-scale (or ''confined,'' as expressed in current biotechnology literature) field tests of genetically engineered plants. In every case a finding of no significant impact was reached, reason enough to conclude that such tests ought to be categorically excluded. To eliminate any confusion, this action (including ''notifications,'' which are little more than logical extensions) will be described separately as an example of categorical exclusions under a retitled paragraph (c)(3). We emphasize, in response to concerns raised by another commenter on this subject, that this categorical exclusion applies only to confined field tests; unconfined testing would not qualify for categorical exclusion.

Two other commenters maintain that the movement and release of at least some nonindigenous species also would qualify for categorical exclusion under the same exclusion theory as small-scale field tests of genetically engineered plants. We agree that categorical exclusion of some nonindigenous species activities—movement to and from ''containment,'' as well as the release into a State's environment of pure cultures of organisms that are either native or are established introductions—is appropriate. These actions also will be described separately as examples of categorical exclusions under paragraph (c)(3).

Finally, the substance of paragraph (c)(3) of the proposed procedures is provided as an example under paragraph (c)(1) of these final procedures. The substance of paragraph (c)(5) of the proposed procedures appears in these final procedures as paragraph (c)(3), which has been retitled ''Licensing and permitting'' and expanded to include activities described in the preceding two paragraphs.

Early Planning for Applicants and Non-APHIS Entities (Section 372.6)

One commenter has complained that the failure to develop ''the necessary environmental data needs'' leaves potential applicants in the dark. This situation, according to the commenter, could lead to imposition of inconsistent and burdensome requirements. Data requirements have indeed been developed for some agency programs.[3] Other programs are in the process of incorporating such requirements into their guidance.

[1] 40 CFR 1508.14.

[2] If the animals to be tested were listed as endangered or threatened by the Federal Government or otherwise protected (by treaty, for example), then categorical exclusion would clearly not be appropriate. In that case, the environmental assessment or environmental impact statement process (as well as any other required consultation or process) would be undertaken.

[3] See for example, 7 CFR 340.4 (data requirements for applications seeking authorization to introduce genetically engineered organisms into the environment).

Miscellaneous

Appeals

One commenter has expressed concern about ''the absence of proposed procedures to provide the public with an opportunity to appeal APHIS decisions with which it disagrees.'' The appeal procedures, according to that commenter, should be made a part of the agency's NEPA procedures so that the public will not be forced ''to seek judicial review as the first and only response to inadequate NEPA documents.''

We do not believe that the agency's NEPA procedures should be the vehicle through which APHIS decisions may be appealed. These procedures are designed to complement the CEQ regulations and to ensure that the NEPA process aids this agency's decisionmaking and contributes to public understanding of APHIS' duties and functions at all levels of administrative action. It is through NEPA's public process that the best possible documentation will be prepared; turning that process into a form of adjudication will do nothing to enhance document quality.

Emergencies

The agency has been urged by one commenter to address ''emergencies'' in its NEPA procedures. It has been recommended that (1) the term ''emergency'' be defined as ''a situation or occurrence of an extremely serious nature that has developed suddenly and unexpectedly and requires immediate action to address a serious threat to life or property,'' and (2) a provision be added to the procedures that would require the agency to consult with CEQ in emergency circumstances ''as soon as possible about alternative arrangements for compliance with NEPA.''

The CEQ regulations, which deal expressly with ''emergency circumstances,'' have been (and will continue to be) complied with by APHIS as necessary. Duplicating the CEQ ''emergency'' regulations here would serve no useful purpose; indeed, we are discouraged from doing so.[4]

Compliance Issues

One commenter has expressed concern that Executive Order 12778 ''moves all decision making and document preparation to the highest possible level—USDA national staff in Hyattsville'' and that the executive order is at ''odds with CEQA [California Environmental Quality Act], and leaves [California citizens and officials] open to limitation under CEQA despite having met NEPA standards.''

The notice of proposed rulemaking merely recited how these procedures are affected by Executive Order 12778, which we cannot disavow. But the fact is that APHIS has not centralized environmental decisionmaking; on the contrary, environmental decisionmaking at this agency is in the process of being decentralized. Furthermore, it is doubtful that California's CEQA would be found to be in ''conflict'' with this agency's procedures. Nevertheless, principles of federalism permit suits to be brought in State court under State law whether or not there is compliance with a counterpart Federal statute.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

These procedures satisfy the requirement to implement CEQ's NEPA regulations and have been designed to reduce to a minimum the regulatory burden on small entities and all other individuals and organizations, public and private.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that these procedures will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the catalogy of Federal Domestic Assistance under No. 10.025 and is subject to Executive 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule (1) Preempts all State and local laws and regulations that are in conflict with these procedures; (2) has no retroactive effect; and (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The National Environmental Policy Act

Implementation of these procedures willl not significantly impact the quality of the human environment.

Paperwork Reduction Act

These procedures contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.).*

List of Subjects in 7 CFR Part 372

Administrative practice and procedure, Environmental assessment, Environmental impact statement, and National Environmental Policy Act.

Accordingly, title 7, chapter III, of the Code of Federal Regulations is amended by adding a new part 372 to read as follows:

PART 372—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Sec.

Authority: 42 U.S.C. 4321 *et seq.*; 40 CFR parts 1500–1508; 7 CFR parts 1b, 2.17, 2.51, 371.2, 371.2(m), 371.13(d), and 371.14(b).

§ 372.1 Purpose.

These procedures implement section 102(2) of the National Environmental Policy Act by assuring early and adequate consideration of environmental factors in Animal and Plant Health Inspection Service planning and decisionmaking and by promoting the effective, efficient integration of all relevant environmental requirements under the National Environmental Policy Act. The goal of timely, relevant environmental analysis will be secured principally by adhering to the National Environmental Policy Act implementing regulations (40 CFR parts 1500–1508), especially provisions pertaining to timing (§ 1502.5), integration (§ 1502.25), and scope of analysis (§ 1508.25).

§ 372.2 Designation of responsible APHIS official.

The Administrator of APHIS, or an agency official to whom the Administrator may formally delegate the task, is responsible for overall review of APHIS' NEPA compliance.

[4] See 40 CFR 1507.3 (''Such procedures shall not paraphrase these regulations').

§ 372.3 Information and assistance.

Information, including the status of studies, and the availability of reference materials, as well as the informal interpretations of APHIS' NEPA procedures and other forms of assistance, will be made available upon request to Environmental Analysis and Documentation, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, P.O. Drawer 810, Riverdale MD 20738, (301) 436–8565 (Hyattsville) or (301) 734–8565 (Riverdale).

§ 372.4 Definitions.

The terminology set forth in the Council on Environmental Quality's (CEQ) implementing regulations at 40 CFR part 1508 is incorporated herein. In addition, the following terms, as used in these procedures, are defined as follows:

APHIS. The Animal and Plant Health Inspection Service (APHIS).

Decisionmaker. The agency official responsible for executing findings of no significant impact in the environmental assessment process and the record of decision in the environmental impact statement process.

Department. The United States Department of Agriculture (USDA).

Environmental unit. Environmental Analysis and Documentation, the analytical unit in Biotechnology, Biologics, and Environmental Protection responsible for coordinating APHIS' compliance with the National Environmental Policy Act and other environmental laws and regulations.

§ 372.5 Classification of actions.

(a) *Actions normally requiring environmental impact statements.* This class of policymakings and rulemakings seeks to establish programmatic approaches to animal and plant health issues. Actions in this class typically involve the agency, an entire program, or a substantial program component and are characterized by their broad scope (often global or nationwide) and potential effect (impacting a wide range of environmental quality values or indicators, whether or not affected individuals or systems may be completely identified at the time). Ordinarily, new or untried methodologies, strategies, or techniques to deal with pervasive threats to animal and plant health are the subjects of this class of actions. Alternative means of dealing with those threats usually have not been well developed. Actions in this class include:

(1) Formulation of contingent response strategies to combat future widespread outbreaks of animal and plant diseases; and

(2) Adoption of strategic or other long-range plans that purport to adopt for future program application a preferred course of action.

(b) *Actions normally requiring environmental assessments but not necessarily environmental impact statements.* This class of APHIS actions may involve the agency as a whole or an entire program, but generally is related to a more discrete program component and is characterized by its limited scope (particular sites, species, or activities) and potential effect (impacting relatively few environmental values or systems). Individuals and systems that may be affected can be identified. Methodologies, strategies, and techniques employed to deal with the issues at hand are seldom new or untested. Alternative means of dealing with those issues are well established. Mitigation measures are generally available and have been successfully employed. Actions in this class include:

(1) Policymakings and rulemakings that seek to remedy specific animal and plant health risks or that may affect opportunities on the part of the public to influence agency environmental planning and decisionmaking. Examples of this category of actions include:

(i) Development of program plans that seek to adopt strategies, methods, and techniques as the means of dealing with particular animal and plant health risks that may arise in the future;

(ii) Implementation of program plans at the site-specific, action level, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(2) Planning, design, construction, or acquisition of new facilities, or proposals for modifications to existing facilities.

(3) Disposition of waste and other hazardous or toxic materials at laboratories and other APHIS facilities, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(4) Approvals and issuance of permits for proposals involving genetically engineered or nonindigenous species, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(5) Research or testing that:

(i) Will be conducted outside of a laboratory or other containment area (field trials, for example); or

(ii) Reaches a stage of development (e.g., formulation of premarketing strategies) that forecasts an irretrievable commitment to the resulting products or technology.

(c) *Categorically excluded actions.* This class of APHIS actions shares many of the same characteristics—particularly in terms of the extent of program involvement, as well as the scope, effect of, and the availability of alternatives to proposed actions—as the class of actions that normally requires environmental assessments but not necessarily environmental impact statements. The major difference is that the means through which adverse environmental impacts may be avoided or minimized have actually been built right into the actions themselves. The efficacy of this approach generally has been established through testing and/or monitoring. The Department of Agriculture has also promulgated a listing of categorical exclusions that are applicable to all agencies within the department unless their procedures provide otherwise. Those categorical exclusions, codified at 7 CFR 1b.3(a), are entirely appropriate for APHIS. Other actions in this class include:

(1) *Routine measures.* (i) Routine measures, such as identifications, inspections, surveys, sampling that does not cause physical alteration of the environment, testing, seizures, quarantines, removals, sanitizing, inoculations, control, and monitoring employed by agency programs to pursue their missions and functions. Such measures may include the use—according to any label instructions or other lawful requirements and consistent with standard, published program practices and precautions—of chemicals, pesticides, or other potentially hazardous or harmful substances, materials, and target-specific devices or remedies, provided that such use meets all of the following criteria (insofar as they may pertain to a particular action):

(A) The use is localized or contained in areas where humans are not likely to be exposed, and is limited in terms of quantity, i.e., individualized dosages and remedies;

(B) The use will not cause contaminants to enter water bodies, including wetlands;

(C) The use does not adversely affect any federally protected species or critical habitat; and

(D) The use does not cause bioaccumulation.

(ii) Examples of routine measures include:

(A) Inoculation or treatment of discrete herds of livestock or wildlife undertaken in contained areas (such as a barn or corral, a zoo, an exhibition, or an aviary);

(B) Pesticide treatments applied to infested plants at a nursery; and

(C) Isolated (for example, along a highway) weed control efforts.

(2) *Research and development activities.* (i) Activities that are carried out in laboratories, facilities, or other areas designed to eliminate the potential for harmful environmental effects—internal or external—and to provide for lawful waste disposal.

(ii) Examples of this category of actions include:

(A) The development and/or production (including formulation, repackaging, movement, and distribution) of previously approved and/or licensed program materials, devices, reagents, and biologics;

(B) Research, testing, and development of animal repellents; and

(C) Development and production of sterile insects.

(3) *Licensing and permitting.* (i) Issuance of a license, permit, or authorization to ship for field testing previously unlicensed veterinary biological products;

(ii) Permitting, or acknowledgment of notifications for, confined field releases of genetically engineered organisms and products; and

(iii) Permitting of:

(A) Importation of nonindigenous species into containment facilities,

(B) Interstate movement of nonindigenous species between containment facilities, or

(C) Releases into a State's environment of pure cultures of organisms that are either native or are established introductions.

(4) *Rehabilitation of facilities.* Rehabilitation of existing laboratories and other APHIS facilities, functional replacement of parts and equipment, and minor additions to such existing APHIS facilities.

(d) *Exceptions for categorically excluded actions.* Whenever the decisionmaker determines that a categorically excluded action may have the potential to affect ''significantly'' the quality of the ''human environment,'' as those terms are defined at 40 CFR 1508.27 and 1508.14, respectively, and environmental assessment or an environmental impact statement will be prepared. For example:

(1) When any routine measure, the incremental impact of which, when added to other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such actions), has the potential for significant environmental impact;

(2) When a previously licensed or approved biologic has been subsequently shown to be unsafe, or will be used at substantially higher dosage levels or for substantially different applications or circumstances than in the use for which the product was previously approved;

(3) When a previously unlicensed veterinary biological product to be shipped for field testing contains live microorganisms or will not be used exclusively for *in vitro* diagnostic testing; or

(4) When a confined field release of genetically engineered organisms or products involves new species or organisms or novel modifications that raise new issues.

§ 372.6 Early planning for applicants and non-APHIS entities.

Each prospective applicant who anticipates the need for approval of proposed activities classified as normally requiring environmental documentation is encouraged to contact, at the earliest opportunities, APHIS' program staff.

§ 372.7 Consultation.

Prospective applicants are encouraged to contact APHIS programs officials to determine what types of environmental analyses or documentation, if any, need to be prepared. NEPA documents will incorporate, to the fullest extent possible, surveys and studies required by other environmental statutes, such as the Endangered Species Act.

§ 372.8 Major planning and decision points and public involvement.

(a) *Major planning and decisions points.* The NEPA process will be fully coordinated with APHIS planning in cooperation with program personnel. Specific decision points or milestones will be identified and communicated to the public and others in a notice of intent and in the context of the public scoping process.

(b) *Public involvement.* There will be an early and open process for determining the scope of issues to be addressed in the environmental impact statement process.

(1) A notice of intent to prepare an environmental impact statement will be published in the **Federal Register** as soon as it is determined that a proposed major Federal action has the potential to affect significantly the quality of the human environment. The notice may include a preliminary scope of environmental study. All public and other involvement in APHIS' environmental impact statement process, including the scoping process, commenting on draft documents, and participation in the preparation of any supplemental documents, will be pursuant to CEQ's implementing regulations.

(2) Opportunities for public involvement in the environmental assessment process will be announced in the same fashion as the availability of environmental assessments and findings of no significant impact.

(3) Notification of the availability of environmental assessments and findings of no significant impact for proposed activities will be published in the **Federal Register**, unless it is determined that the effects of the action are primarily of regional or local concern. Where the effects of the action are primarily of regional or local concern, notice will normally be provided through publication in a local or area newspaper of general circulation and/or the procedures implementing Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(4) All environmental documents, comments received, and any underlying documents, including interagency correspondence where such correspondence transmits comments of Federal agencies on the environmental impact of proposals for which documents were prepared (except for privileged or confidential information (50 FR 38561)), will be made available to the public upon request. Materials to be made available will be provided without charge, to the extent practicable, or at a fee not more than the actual cost of reproducing copies required to be sent to other Federal agencies, including CEQ.

§ 372.9 Processing and use of environmental documents.

(a) Environmental assessments will be forwarded immediately upon completion to the decisionmaker for a determination of whether the proposed action may have significant effects on the quality of the human environment, and for the execution, as appropriate, of a finding of no significant impact or a notice of intent to prepare an environmental impact statement.

(1) The availability of environmental assessments will be announced by publishing a notice consistent with the notification provisions of § 372.8.

(2) Comments, if any, will be transmitted, together with any analyses and recommendations, to the APHIS decisionmaker who may then take appropriate action.

(3) Changes to environmental assessments and findings of no significant impact that are prompted by comments, new information, or any other source, will normally be announced in the same manner as the notice of availability (except that all commenters will be mailed copies of changes directly) prior to implementing the proposed action or any alternative.

(b) Environmental impact statements will be processed from inception (publication of the notice of intent) to completion (publication of a final environmental impact statement or a supplement) according to the Council on Environmental Quality implementing regulations.

(c) For rulemaking or adjudicatory proceedings, relevant environmental documents, comments, and responses will be a part of the administrative record.

(d) For all APHIS activity that is subject to the NEPA process, relevant environmental documents, comments, and responses will accompany proposals through the review process.

(e) The APHIS decisionmaker will consider the alternatives discussed in environmental documents in reaching a determination on the merits of proposed actions.

(f) APHIS will implement mitigation and other conditions established in environmental documentation and committed to as part of the decisionmaking process.

§ 372.10 Supplementing environmental impact statements.

Once a decision to supplement an environmental impact statement is made, a notice of intent will be published. The administrative record will thereafter be open. The supplemental document will then be processed in the same fashion (exclusive of scoping) as a draft and a final statement (unless alternative procedures are approved by CEQ) and will become part of the administrative record.

Done in Washington, DC, this 26th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–2450 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1032

[DA–95–08]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document suspends a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the month of January 1995. The proposed suspension was requested by Mid-America Dairymen, Inc., and Prairie Farms, Inc., which contend the proposed action is necessary to ensure that producers' milk historically associated with Order 32 will continue to be priced and pooled under the order.

EFFECTIVE DATE: January 1, 1995, through January 31, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 27, 1994; published January 3, 1995 (60 FR 65).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 3, 1995 (60 FR 65) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment letter supporting the proposed suspension was received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the period of January 1, 1995, through January 31, 1995, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.7(c), the words ''each of'', the letter ''s'' at the end of the word ''months'', and the words ''through January'' and ''for the months of February''.

Statement of Consideration

This rule suspends a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk order. The suspension allows a supply plant to qualify as a pool plant during the month of January 1995 if it qualified as a pool supply plant during the immediately preceding month of September.

Mid-America Dairymen, Inc. (Mid-America), and Prairie Farms, Inc. (Prairie Farms), jointly requested the suspension. According to the request letter, Mid-America lost a major account with a pool distributing plant regulated under Order 32, effective December 16, 1994. As a result, Mid-America and Prairie Farms contend that much of the producer milk supplying the distributing plant will no longer be needed for Class I use. The proponents assert that the order should not penalize producers who have historically supplied the Class I needs of the market by requiring milk shipments that are not needed.

Mid-America and Prairie Farms filed a comment letter reiterating its support for the proposed suspension. No comments were received in opposition to the proposed action.

The suspension is found to be necessary for the purpose of assuring